

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Authorization Of)	
In Band On Channel)	FCC Docket 99-325
(IBOC) Digital Radio)	

**MOTION BY DON SCHELLHARDT, ESQUIRE
AND NICKOLAUS E. LEGGETT N3NL
TO STAY PROCEEDINGS,
PENDING A FINAL COMMISSION DECISION
ON THEIR SEPTEMBER 25, 2001 PETITION FOR RULEMAKING**

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Don Schellhardt, Esquire, of Connecticut is a Government Relations attorney, in solo practice, and a writer. He has had 30 years of experience in working for, and attempting to influence from the outside, all 3 branches of government: Executive, Legislative and Judicial. The Legislative Branch and Executive Branch experience includes work with both Federal and State levels of government.

Don Schellhardt holds a B.A. in Government from Wesleyan University in Connecticut, a Juris Doctor law degree (specializing in International Law and Administrative Law) from George Washington University in the District of Columbia and Bar Memberships in Virginia and Connecticut. Over the last 5 years, he has authored almost 200 filings with the FCC, most of them as a spokesperson for THE AMHERST ALLIANCE, and/or for the NATIONAL ANTENNA CONSORTIUM (NAC). However, 37 of them express his personal views as an individual citizen.

Nickolaus E. Leggett N3NL of Virginia is a technical writer, political analyst and inventor. Nick has analyzed technological issues, with political implications, for the National Aeronautics and Space Administration (NASA) and also for the International Research & Technology Corporation (IR&T). He has also been a computer instructor and technical writer for several companies, including GTE and Alcatel. In addition, he holds 3 patents, several non-commercial radio licenses and every non-commercial flight license that is available. With his wife, Judith Fielder Leggett, he has authored several award-winning scientific papers on practical aspects of rendering lunar, asteroid and orbital colonies habitable and self-sustaining.

Nick Leggett earned a B.A. in Government from Wesleyan University in Connecticut, as well as an M.S. in Political Science from Johns Hopkins University in Maryland. Like Don Schellhardt, he has been active as a Member and a leader of both THE AMHERST ALLIANCE and the NAC. However, over the last 5 years he has also authored 132 filings that express his personal views, as an individual citizen.

In filing this Motion, Don Schellhardt and Nick Leggett stress that they are again acting as individuals and speaking only for themselves.

Needed:
Final Commission Action On
A Relevant, Material *And Pending* Petition For Rulemaking

On September 25, 2001, we filed with the FCC a Petition For Rulemaking. This Petition For Rulemaking contains the text of a proposed rule to establish mandatory shielding standards for protecting certain vital civilian electronics equipment against the crippling effects of an Electromagnetic Pulse (EMP).

An EMP could be artificially generated by terrorists, and/or other enemies of the United States, in order to disable civilian communications equipment, computers and a broad array of electronic devices, including the electronic ignitions that start our motor vehicles. Non-nuclear EMP generators could be used for relatively targeted attacks (such as wiping out financial records on Wall Street), while the high-altitude detonation of a nuclear or thermonuclear device could induce an EMP over a wide geographical area.

We had previously submitted a Petition For *Notice Of Inquiry* on EMP in 1986, only to see it denied by the FCC's staff -- and, upon appeal, by the full Commission -- in 1987. In 2001, after experiencing the events of September 11, and reflecting once more upon the potentially catastrophic effects of an EMP used by terrorists, we felt a strong moral obligation to try again. This time, in light of the increased urgency, we skipped the NOI concept and moved directly to a proposed rule.

The EMP Petition was Docketed as FCC Docket RM-10330. It attracted 34 Written Comments and Reply Comments. In a letter that was dated May 24, 2002, but postmarked June 3, 2002, the EMP Petition was denied by the FCC's staff. Thereafter, on June 26, 2002, we filed a Petition For Reconsideration, appealing the FCC staff's denial to the full Commission.

2 years have passed since our Petition For Reconsideration was submitted to the full Commission. So far, the full Commission has not denied, granted or even acknowledged this Petition For Reconsideration.

**Action On EMP *Now*
Can Avoid Costly Duplication Of Effort Later**

We realize it may not be "clear on its face" why our Petition For Rulemaking on EMP, in FCC Docket RM-10330, is "relevant and material" to the IBOC implementation proceedings in FCC Docket 99-325.

The connection between the 2 Dockets is simple but solid.

To wit: Action on EMP *now* can avoid costly duplication of effort later.

If the Commission continues on its current course toward widespread implementation of IBOC, or even if it shifts to implementation of some *other* form(s) of Digital Radio

technology, broadcasters and equipment manufacturers will have to engage in substantial re-design and retrofitting, and -- in some cases -- construction of new facilities.

New standards for EMP shielding of vital civilian electronics equipment are *also* likely to require re-design and retrofitting, and perhaps some new construction, by broadcasters and equipment manufacturers.

Therefore:

If the 2 implementation processes can be initiated and overseen *in tandem*, considerable duplication of effort -- and, with it, substantial expense -- can be avoided.

Simultaneous efforts will be much more cost-efficient than sequential efforts.

If the FCC waits to consider the merits of EMP shielding standards until *after* it has reached a decision on further aspects of implementing IBOC, and/or some other form(s) of Digital Radio, *then* there is a real risk various parties will spend tens of millions of dollars (or more) on re-design, retrofitting and/or construction for the Digital Radio “rollout” -- only to be told they must *now* initiate *another* round of re-design, retrofitting and/or construction to comply with new EMP shielding standards.

Why not consider the adoption of mandatory EMP shielding standards -- as proposed in the Schellhardt/Leggett Petition For Rulemaking of September 25, 2001 -- *now*, rather than later? A penny spent on foresight today could save \$100.00 in 5 years.

THE MOTION ITSELF

For the reasons we have stated herein, we submit to the Commission the following

Motion To Stay Proceedings:

We move to stay the current proceedings in FCC Docket 99-325 *until and unless* the Commission has first granted or denied, in whole or in part, the June 26, 2002 Schellhardt/Leggett Petition For Reconsideration, challenging the FCC staff's denial of the September 25, 2001 Schellhardt/Leggett Petition For Rulemaking, on new EMP shielding standards, in FCC Docket RM-10330.

Respectfully submitted,

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Dated: _____
June 16, 2004